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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

- - - - -X
UNITED STATES OF AMERICA 18-CR-6094(G)

vs.
CARLOS JAVIER FIGUEROA, Rochester, New York
Defendant. May 13, 2021
12:41 p.m.
- - - - -X

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE FRANK P. GERACI, JR.
UNITED STATES DISTRICT CHIEF JUDGE

JAMES P. KENNEDY, JR., ESQ.
United States Attorney
BY: ROBERT A. MARANGOLA, ESQ.
CASSIE M. KOCHER, ESQ.
Assistant United States Attorneys
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Rochester, New York 14614
Appearing on behalf of the United States

PAUL J. VACCA, JR., ESQ.
One East Main Street, Suite 1000
Rochester, New York 14614
Appearing on behalf of the Defendant

ALSO PRESENT: Nicolas Penchaszadeh, Spanish Interpreter
Barbara Considine, Spanish Interpreter
Besayda Soto Abbate, Spanish Interpreter

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I N D E X

WITNESS FOR THE GOVERNMENT

Axel Aponte Camacho

Direct examination by Mr. Marangola

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P R O C E E D I N G S

* * *

(WHEREUPON, the defendant is present; the jury is present).

THE COURT: Call your next witness.

MR. MARANGOLA: Thank you, Your Honor, the Government calls Axel Aponte Camacho.

(WHEREUPON, the interpreter Besayda Soto Abbate was sworn).

GOVERNMENT'S WITNESS, AXEL APONTE CAMACHO, SWORN

DIRECT EXAMINATION

THE COURT: Mr. Camacho, you may remove your mask since you're behind the plexiglas during your testimony. Thank you. You may proceed.

MR. MARANGOLA: Thank you, Your Honor.

BY MR. MARANGOLA:

Q. Good afternoon.

A. Good afternoon.

Q. Would you please introduce yourself to the jury?

A. Axel Aponte Camacho.

Q. Mr. Aponte Camacho, can you tell the jury do you speak English?

A. Not very good.

Q. You speak it a little bit?

A. Yes.

1 Q. Do you speak Spanish?

2 A. Yes.

3 Q. And is that your primary language?

4 A. Yes.

12:42:22PM 5 Q. Now, Ms. Sota Abbate, the interpreter, is sitting next to
6 you interpreting my questions for you; is that correct?

7 A. Yes.

8 Q. Do you understand the interpreter?

9 A. Yes.

12:42:36PM 10 Q. If you don't understand any questions by me or any other
11 lawyer, please let me know, okay?

12 A. Okay.

13 Q. Can you read Spanish?

14 A. Yes.

12:42:53PM 15 Q. And how about English?

16 A. Not very good.

17 Q. Mr. Aponte Camacho, can you tell the jury were you
18 arrested and charged in federal court with narcotics and
19 firearms offenses?

12:43:11PM 20 A. Yes.

21 Q. When were you arrested?

22 A. December 8, 2016.

23 Q. And have you been in custody since then?

24 A. Yes.

12:43:23PM 25 Q. Where were you arrested on December 8th, 2016?

1 A. On Miller Street.

2 Q. Were you on the street or in a house?

3 A. In a house.

4 Q. Do you remember the number of the house?

12:43:46PM 5 A. I think it was 54.

6 Q. Did you agree to plead guilty and cooperate in connection
7 with the federal charges?

8 A. Yes.

9 Q. What did you plead guilty to?

12:44:06PM 10 A. Possession of 1 kilogram or more of heroin with intent to
11 distribute and possession of firearm and discharge of firearm
12 in furtherance of drug trafficking.

13 Q. Have you been sentenced yet?

14 A. No.

12:44:32PM 15 Q. On the date of your arrest did you, in fact, possess over
16 a kilogram of heroin?

17 A. I didn't understand -- I didn't hear the question.

18 Q. On the day of your arrest December 8th, 2016, did you, in
19 fact, possess more than a kilo of heroin?

12:44:52PM 20 A. Yes.

21 Q. Was that at 54 Miller Street?

22 A. Yes.

23 Q. Did you, in fact, also possess a firearm that day at that
24 location as well?

12:45:04PM 25 A. Yes.

1 Q. And did you discharge or shoot that firearm on
2 December 8th, 2016?

3 A. Yes.

4 Q. All right. I'd like you to look at the screen in front of
5 you. Do you see that?

6 A. Yes.

7 **MR. MARANGOLA:** Your Honor, if we could show the
8 witness what is not in evidence as Government's 783.

9 **BY MR. MARANGOLA:**

10 Q. Mr. Aponte Camacho, do you see Government's 783 on your
11 screen?

12 A. Yes.

13 Q. Do you recognize it?

14 A. The plea agreement, yes.

15 Q. Is that your plea agreement?

16 A. Yes.

17 Q. Let me, if I can, direct your attention to page 15 of this
18 exhibit. Do you see that on your screen?

19 A. Yes.

20 Q. And that's the second to last page here. Do you see your
21 signature on that page?

22 A. Yes.

23 Q. And that of your attorney Mr. Pilato as well?

24 A. Yes.

25 Q. And did you sign that plea agreement on February 23rd,

1 2018, as it shows on that page?

2 A. Yes.

3 Q. All right. So Government's 783, is that the plea
4 agreement you entered into with the Government to resolve your
12:46:42PM 5 charges?

6 A. Yes.

7 Q. In this plea agreement did you agree to cooperate with the
8 Government?

9 A. Yes.

12:46:51PM 10 Q. And are you testifying here today pursuant to that
11 agreement to cooperate that's contained within the plea
12 agreement marked Government's 783?

13 A. Yes.

14 Q. All right. Would you mind telling the jury how old are
12:47:06PM 15 you?

16 A. 26.

17 Q. Where were you born and raised?

18 A. In Puerto Rico.

19 Q. When did you -- did there come a time when you came to the
12:47:20PM 20 Continental United States?

21 A. Yes.

22 Q. Do you recall when that was?

23 A. December 31st, 2014.

24 Q. And where did you come on December 31st, 2014?

12:47:41PM 25 A. Rochester.

1 Q. How old were you when you came?

2 A. 19.

3 Q. Can you tell the jury why you first came to Rochester when
4 you were 19?

12:47:56PM 5 A. Looking for a better life.

6 Q. Did you have any family in Rochester when you first came
7 on New Year's eve 2014?

8 A. Yes.

9 Q. Who was here of your family?

12:48:15PM 10 A. My sister.

11 Q. What's her name?

12 A. Amy Martinez.

13 Q. Does she have the same last name? Is her last name also
14 Camacho?

12:48:28PM 15 A. Yes, Amy Martinez Camacho.

16 Q. Have you been in Rochester ever since you came on
17 December 31st, 2014?

18 A. I left to New Jersey in February and I came back in April.

19 Q. You came back to Rochester in April?

12:48:57PM 20 A. Yes, of 2015.

21 Q. All right. And up until the time of your arrest on
22 December 8th, 2016, have you been in Rochester since April of
23 2015?

24 A. Yes.

12:49:12PM 25 Q. Can you tell the jury how far did you get in school in

1 Puerto Rico?

2 A. I approve 9th grade.

3 Q. You dropped out in 9th grade in Puerto Rico?

4 A. I finish 9 and I was supposed to go back in the 10th grade
12:49:40PM 5 and I drop.

6 Q. All right. After dropping out after 9th grade, did you go
7 to any other school or classes for anything in Puerto Rico?

8 A. Yes.

9 Q. What did you go to school for?

10 A. The barber.
12:50:03PM

11 Q. You went to school to learn to become a barber?

12 A. Yes.

13 Q. Was that in Puerto Rico?

14 A. Yes.

15 Q. Did you complete your training to become a barber?
12:50:12PM

16 A. Yes.

17 Q. Are you a certified barber?

18 A. Yes, I have a diploma, but not the license, a master
19 license.

20 Q. What's the difference between a diploma and a master
12:50:31PM 21 license?

22 A. With a diploma you can work at a barber shop, but with a
23 master you can open a barber shop.

24 Q. Okay. And you have the diploma?

12:50:53PM 25 A. Yeah, but right now -- right now I don't have it.

1 Q. You don't have it anymore?

2 A. No.

3 Q. Why not?

4 A. Because that stay in Puerto Rico.

12:51:10PM 5 Q. Okay. Since you were arrested in December of 2016, have
6 you attempted to take any classes while in custody?

7 A. Yes.

8 Q. What have you done? What classes have you attempted while
9 you've been in custody?

12:51:33PM 10 A. The GED.

11 Q. Did you obtain your GED since you were arrested in this
12 case?

13 A. Yes.

14 Q. And where did you obtain your GED, do you remember?

12:51:47PM 15 A. In Yates County Jail.

16 Q. While you were being held at Yates County Jail?

17 A. Yes.

18 Q. All right. Can you tell the jury are you married or are
19 you single?

12:52:00PM 20 A. Single.

21 Q. Do you have any children?

22 A. One.

23 Q. What do you have?

24 A. A boy, male.

12:52:10PM 25 Q. How old is your son?

1 A. Three years old.

2 Q. Who is the mother of your son?

3 A. Karina Lopez.

4 Q. All right. You testified that when you first moved to

12:52:28PM 5 Rochester your sister was living here; is that right?

6 A. Yes.

7 Q. Other than your sister did you know anyone else when you
8 first moved to Rochester?

9 A. Yes.

12:52:41PM 10 Q. Who else did you know?

11 A. Obed Torres.

12 Q. Was Obed Torres in Rochester when you moved here?

13 A. Yes.

14 Q. How did you know Obed Torres?

12:52:58PM 15 A. We went to school together in Puerto Rico.

16 Q. If we could show you what is in evidence as Government's

17 26. Mr. Aponte Camacho, do you see the individual you went to
18 school with in Puerto Rico and knew as Obed Torres in
19 Government's Exhibit 26?

12:53:26PM 20 A. Yes.

21 Q. Would you -- if you touch the screen it will make a mark
22 on the screen. If you can touch the screen or circle the
23 photo of the person you knew as Obed Torres shown in
24 Government's Exhibit 26? All right, and you've made a circle
12:53:50PM 25 on the third row, the photo at the far left; is that correct?

1 A. Yes.

2 Q. Is that the person you knew as Obed Torres?

3 A. Yes.

4 Q. And he was already in Rochester when you came here in
12:54:05PM 5 April 2015?

6 A. Yes.

7 Q. If you look on your computer monitor toward the top right
8 there's a little menu. Do you see one of the buttons in there
9 on the bottom says clear, C-L-E-A-R?

12:54:23PM 10 A. Yes.

11 Q. If you touch that it will remove the red mark that you
12 just made on the screen. Would you do that please? All
13 right, thank you.

14 After you came to Rochester in April of 2015, did
12:54:41PM 15 you get a job?

16 A. Yes.

17 Q. What was your job when you came to Rochester?

18 A. I work at the barber shop, Felix barber shop.

19 Q. Where was Felix's barber shop?

12:54:59PM 20 A. North Clinton and Avenue D.

21 Q. In the City of Rochester?

22 A. Yes.

23 Q. Let me show you what is not in evidence as Government's
24 Exhibit 108. Do you recognize what's shown in Government's
12:55:18PM 25 Exhibit 108?

1 A. Yes.

2 Q. What's shown in Government's 108?

3 A. The barber shop where I worked.

4 Q. Does Government's 108 fairly and accurately show the
12:55:33PM 5 barber shop that you worked at when you first came to
6 Rochester in April 2015?

7 A. Yes.

8 **MR. MARANGOLA:** At this time I'd offer Government's
9 108.

10 **MR. VACCA:** No objection, Your Honor.

11 **THE COURT:** Exhibit 108 will be received.

12 (**WHEREUPON**, Government's Exhibit 108 was received
13 into evidence).

14 **BY MR. MARANGOLA:**

15 Q. Mr. Aponte Camacho, you worked at this barber shop here
16 shown on the screen?

17 A. Yes.

18 Q. And what were you doing there?

19 A. Giving hair cuts.

12:56:12PM 20 Q. Were you cutting hair on the side as well?

21 A. Like you mean like outside the barber shop?

22 Q. Yes. Were you -- did you have clients whose hair you
23 would cut outside the barber shop?

24 A. Yes.

12:56:30PM 25 Q. So you must have been pretty good?

1 A. Yes.

2 Q. Ever cut your own hair?

3 A. Yes.

4 Q. Did you mess it up?

12:56:48PM 5 A. Yeah, I messed it up.

6 Q. All right. Did there come a time, Mr. Aponte Camacho, that
7 you got -- that you became involved in selling drugs?

8 A. Yes.

9 Q. And about when was that, do you recall?

12:57:10PM 10 A. Like a month after I arrived from New Jersey, like in May.

11 Q. So in about May of 2015?

12 A. Yes.

13 Q. And were you still involved in the drug business up until
14 the time of your arrest in December of 2016?

12:57:39PM 15 A. Yes.

16 Q. Who did you work for selling drugs between May of 2015 and
17 your arrest in December of 2016?

18 A. I didn't understand the question.

19 Q. My question was who did you work for in selling drugs
12:57:59PM 20 between May of 2015 and your arrest in December 2016?

21 A. With Carlos Javier Figueroa.

22 Q. I'm going to show you what is in evidence as Government's
23 28 and ask you if you recognize the person shown in
24 Government's Exhibit 28?

12:58:26PM 25 A. Yes.

1 Q. Who do you recognize the person in Government's Exhibit 28
2 to be?

3 A. Carlos Javier Figueroa.

4 Q. Do you see the person you knew as Carlos Javier Figueroa
12:58:43PM 5 in Government's Exhibit 28 also in court?

6 A. Yes.

7 Q. Would you point to him and describe what he's wearing for
8 the record?

9 A. A blue shirt.

12:59:03PM 10 **MR. MARANGOLA:** Your Honor, may the record reflect
11 Mr. Aponte Camacho's identification of the defendant Carlos
12 Figueroa?

13 **THE COURT:** Yes, the record will note the
14 identification of the defendant Carlos Javier Figueroa.

12:59:13PM 15 **BY MR. MARANGOLA:**

16 Q. Were you the only person working for Javi selling drugs
17 during the time between March -- I'm sorry, May of 2015 and
18 December 2016?

19 A. No.

12:59:30PM 20 Q. Can we put up Government's 26, please? Thank you. Who
21 were some of the other people that were involved in selling
22 drugs for Carlos Figueroa between May of 2015 and December of
23 2016?

24 A. Leitscha, Robert, Obed, myself, Victor, Pistolita, Yankee,
01:00:14PM 25 Tapon, Palito, and Dino.

1 Q. All right. Are any of the people that you mentioned -- are
2 any of the people that you were involved in selling drugs with
3 between May of 2015 and December of 2016 shown in Government's
4 Exhibit 26?

01:00:37PM 5 A. Yes.

6 Q. All right. If you can start at the top and tell us any of
7 the individuals that you recognize as being involved in
8 selling drugs during that period of time what their name is,
9 what you knew them as and what their involvement in Javi's
10 operation was. Starting at the top of Government's 26. If
11 you touch the screen to the photograph that you are referring
12 to then we'll know which picture you're talking about.

13 A. Carlos Javier Figueroa.

14 Q. You circled the top photo?

01:01:27PM 15 A. Yes.

16 Q. What nicknames did he go by?

17 A. Javi, Matatan, and Big Brother.

18 Q. And what was his role?

19 A. He was the boss.

01:01:57PM 20 Q. All right. If you can clear your mark? And then keep
21 going down telling us any other individuals who were involved
22 in selling drugs with you between May of 2015 and your arrest
23 in December 2016.

24 A. Leitscha.

01:02:21PM 25 Q. You circled the photo below -- the photo on the second row

1 on the left?

2 A. Yes.

3 Q. And what were Leitscha's nicknames?

4 A. Flaca.

01:02:38PM 5 Q. And what was Lei's role?

6 A. She worked the table packaging drugs, she will make
7 deliveries. That's -- it means when someone is selling in the
8 street and they run out of the drugs, they will call her and
9 she will bring them more. And she will make phone calls to
01:03:14PM 10 Puerto Rico to make the movement of drugs so that they can
11 send them through the mail and she will find -- look out for
12 apartments so that Javier can rent to save the drug there and
13 the firearm. And she will count the money and she will save
14 it so that Javier -- to give it to Javier.

01:03:53PM 15 Q. What was Leitscha's relationship with Javi?

16 A. It was like -- like his lover.

17 Q. All right. If you can clear your mark? Let's keep going.
18 You circled the picture in the second row from the top on the
19 right?

01:04:29PM 20 A. Yes.

21 Q. And who is that?

22 A. Roberto Figueroa.

23 Q. Were you aware of any nicknames that he went by?

24 A. Robert.

01:04:43PM 25 Q. And what was his role?

1 A. He worked at the table, he will sell, he will make
2 deliveries, it means like when someone is selling on the
3 street and they run out of drugs they will call him and he
4 will bring them more. And if Javier had a problem, he will go
01:05:18PM 5 and he will shove his face for him. If he have to go in with
6 a firearm, he will go.

7 Q. What was Roberto Figueroa's relationship with the
8 defendant?

9 A. His brother.

01:05:38PM 10 Q. All right. If you can clear your mark? Are there any
11 individuals on the row below that third row who were involved
12 in this operation?

13 A. Yes.

14 Q. All right. Go ahead. And you've circled the photograph on
01:06:00PM 15 the far left of the third row; is that right?

16 A. Yes.

17 Q. And you previously identified this person as who?

18 A. Obed Torres.

19 Q. What was his -- did he have any nicknames?

01:06:15PM 20 A. No. Well, Javier used to call us, me and him, Pinky and
21 Brain.

22 Q. Javier used to call you and Obed?

23 A. Yes.

24 Q. You said Pinky and Brain?

01:06:40PM 25 A. Yes.

1 Q. Do you know why?

2 A. Because there was some cartoon that was many years ago
3 that they will show in Puerto Rico.

4 Q. Okay. That was just what Javi called you and Obed?

01:07:06PM 5 A. Yes.

6 Q. Okay. Other than Pinky and Brain did Obed have any other
7 nicknames that you remember?

8 A. No.

9 Q. What was Obed's role?

01:07:24PM 10 A. He will sell in the street drugs and in the houses, he
11 will work the tables, and he will make deliveries like if
12 someone was selling in the street and they run out of drugs,
13 they will call him and he will bring them more. And he also
14 with Victor they kill someone on Leo Street.

01:08:00PM 15 Q. What was Obed's relationship with Javi?

16 A. It was like a son for him.

17 Q. Obed was like a son to Javi?

18 A. Yes.

19 Q. All right. If you can clear your mark? And keep going
01:08:28PM 20 along that row, the third row. And you circled the second
21 from the end on the left; is that right?

22 A. Yes.

23 Q. Who is in that photograph?

24 A. Myself.

01:08:48PM 25 Q. Did you have any nicknames that you went by?

1 A. Javier used to call Obed and I Pinky and Brain.

2 Q. Did he call you one Pinky and the other Brain or did it
3 change?

4 A. No. When he will see us together that's when he will --
01:09:17PM 5 that's what he will say, that's Pinky and Brain.

6 Q. All right. What was your role?

7 A. I will sell drugs in the street and in the houses and I
8 worked the tables.

9 Q. All right. If you can -- well, before we move on, what
01:09:39PM 10 was your relationship with Javi?

11 A. I was a worker and he was the boss.

12 Q. All right. Let's -- if you can clear your mark and we'll
13 keep going on that third row. You've circled the photograph
14 in the third row third from the left?

01:10:04PM 15 A. Yes.

16 Q. Who is that?

17 A. Victor.

18 Q. Did he go by any nicknames?

19 A. Vic.

01:10:15PM 20 Q. Anything else?

21 A. And Tuco.

22 Q. Tuco?

23 A. Yes.

24 Q. What does Tuco mean?

01:10:28PM 25 A. Like when you're missing fingers.

1 Q. Is Tuco a Spanish term?

2 A. Yes.

3 Q. That has something to do with missing fingers?

4 A. Yes.

01:10:40PM 5 Q. Why was Victor referred to as Tuco?

6 A. Because he was missing fingers.

7 Q. What was Victor's role or involvement?

8 A. He will sell drugs in the street and in the houses and he

9 will work the table and he killed a guy with Obed on Leo

01:11:17PM 10 Street.

11 Q. What was Victor's relationship with Javi?

12 A. He was a worker and Javier was the boss.

13 Q. All right. If you can clear your mark? Anyone else on

14 that third row? You've circled the third photo from the right

01:11:47PM 15 on the third row of Government's 26; is that correct?

16 A. Yes.

17 Q. Who is that?

18 A. Pistolita.

19 Q. That's a nickname for the person that you just circled?

01:12:02PM 20 A. Yes.

21 Q. During -- between May of 2015 and your arrest, did you

22 know Pistolita's real name?

23 A. No.

24 Q. What was Pistolita's role?

01:12:21PM 25 A. He will sell in the street and in the houses and he will

1 work the table and he will make deliveries; like when somebody
2 run out of drugs and they needed more; they will call him and
3 he will bring them more.

4 Q. What was Pistolita's relationship with Javi?

01:12:49PM 5 A. He was a worker and Javier the boss.

6 Q. All right. If you can clear your mark? Anyone else in
7 that third row? And you circled the photograph second from
8 the right on the third row in Government's 26; is that
9 correct?

01:13:11PM 10 A. Yes.

11 Q. Who did you circle?

12 A. Yankee.

13 Q. Did you know Yankee's real name between May 2015 and your
14 arrest December of 2016?

01:13:26PM 15 A. No.

16 Q. What was Yankee's role?

17 A. He will sell drugs in the street and in the houses, and he
18 will work the table, and he will make deliveries when somebody
19 was selling and they were running out of drugs he will go and
01:13:53PM 20 will bring them more, and he will make deliveries to

21 Mt. Morris of drugs.

22 Q. What was Yankee's relationship with Javi?

23 A. I was gonna say more.

24 Q. Oh, about Yankee's role?

01:14:13PM 25 A. Yes.

1 Q. Okay.

2 A. And he will make phone calls to Puerto Rico to make the
3 drugs movement that Javi will order.

4 Q. Yankee was involved in arranging the drugs from
01:14:32PM 5 Puerto Rico?

6 A. Yes.

7 Q. Anything else that you can recall about Yankee?

8 A. No. I don't remember.

9 Q. What was his relationship with Javi?

01:14:51PM 10 A. He was a worker and Javi the boss.

11 Q. All right. If you can clear your mark? Anyone else in the
12 third row? You circled the last photo or the photo on the
13 right on the third row of Government's 26; is that right?

14 A. Yes.

01:15:14PM 15 Q. Who is that?

16 A. Tapon.

17 Q. Did you know his real name between May of 2015 and your
18 arrest December in December 2016?

19 A. No.

01:15:28PM 20 Q. You referred to him as Tapon?

21 A. Yes, or Enano.

22 Q. Enano?

23 A. Yes.

24 Q. Can you spell that for Ms. Macri?

01:15:43PM 25 A. E-N-A-N-O.

1 Q. Thank you. What was Tapon's role?

2 A. He will work the table, he will sell in the street and in
3 the houses and he will make deliveries, deliveries like if
4 somebody was selling drugs and they ran out they will call him
01:16:20PM 5 and he will bring them more. And if somebody was selling
6 drugs -- if somebody was selling drugs in our spot, he will go
7 and kill them and he killed a guy that was selling drugs on
8 Burbank Street. That's where we used to sell.

9 Q. What was Tapon's relationship with Javi?

01:16:56PM 10 A. He was a worker and Javi the boss.

11 Q. All right. If you can clear your mark? Anyone in the
12 fourth row from the top that you recognize? And you've
13 circled the photograph all the way to the right on the fourth
14 row from the top, the individual wearing a white T-shirt; is
01:17:30PM 15 that correct?

16 A. Yes.

17 Q. Who is that?

18 A. Dino.

19 Q. Did you know Dino's real name between May of 2015 and your
01:17:41PM 20 arrest in December of 2016?

21 A. No.

22 Q. What was Dino's role?

23 A. He was an addict, but sometimes he was -- he will look out
24 for when the police will come, and sometimes he was -- used to
01:18:06PM 25 sell in the street and in the houses.

1 Q. Do you know what Dino's relationship was with Javi?

2 A. No.

3 Q. If you can clear your mark? Anyone else in that fourth
4 row from the top? You circled the person in the center of the
01:18:34PM 5 fourth row from the top the individual wearing a red T-shirt;
6 is that right?

7 A. Yes.

8 Q. Who is that?

9 A. Palito, P-A-L-I-T-O.

01:18:47PM 10 Q. And did you know his real name between May of 2015 and
11 December of 2016 when you were arrested?

12 A. No.

13 Q. Did he go by any other nicknames besides Palito?

14 A. Flaco.

01:19:08PM 15 Q. What was Palito's or Flaco's role?

16 A. He most of the time was a lookout like when somebody was
17 selling and if the police is coming he will let us know.

18 Q. All right. Anyone else -- if you can clear your mark?
19 Anyone else on that fourth row from the top?

01:19:50PM 20 A. No.

21 Q. Do you recognize any of the individuals shown on the
22 bottom row of Government's Exhibit 26?

23 A. Yes.

24 Q. Starting with the left, tell us who you know. All right,
01:20:09PM 25 you circled the photograph farthest on the left on the bottom

1 row, the young lady wearing the red T-Shirt; is that right?

2 A. Yes.

3 Q. Who is that?

4 A. Karina Lopez.

01:20:20PM 5 Q. The mother of your son?

6 A. Yes.

7 Q. All right. If you can clear her -- I'm sorry, clear your
8 mark there. Do you know anyone else on Government's Exhibit
9 26 in that bottom row?

01:20:38PM 10 A. Yes.

11 Q. You circled the second photograph from the left on the
12 bottom row?

13 A. Yes.

14 Q. And who did you circle?

01:20:50PM 15 A. Ingrid Mercado.

16 Q. You can clear your mark. Did you know anyone else in that
17 last row? And you circled the photograph farthest to the
18 right on the bottom row; is that right?

19 A. Yes.

01:21:13PM 20 Q. And who is the individual that you circled there?

21 A. Tito.

22 Q. Tito, like T-I-T-O?

23 A. Yes.

24 Q. How did you know the person that you circled in

01:21:32PM 25 Government's 26 and referred to as Tito?

1 A. Because he live in Javier's on Burbank.

2 Q. All right. Was that the entire time that you were working
3 for Javi that Tito lived in Javi's house on Burbank?

4 A. No. A period of time.

01:21:57PM 5 Q. Okay. If you can clear your mark? Now, the individuals
6 that you've testified about their role and their nicknames,
7 that's based on your personal participation in this drug
8 operation?

9 A. Yes.

01:22:16PM 10 Q. And based on your knowledge through your personal
11 participation in this drug operation; is that right?

12 A. Yes.

13 Q. Were the same people working for Javi the entire time that
14 you were working for Javi between May of 2015 and December of
01:22:41PM 15 2016?

16 A. Can you repeat the question?

17 Q. Yeah. Were the same people working for Javi the entire
18 time that you worked for Javi between May of 2015 and December
19 of 2016?

01:23:06PM 20 A. Some of them were arrested and they did some time in jail.

21 Q. Okay. Do you see any of the individuals on Government's
22 Exhibit 26 who were arrested? You circled the -- all right,
23 go ahead, keep circling. Okay, you've circled three photos in
24 the third row?

01:23:47PM 25 A. Yes, because -- because you asked me that were arrested.

1 Q. Okay. Were each of the three individuals you circled
2 arrested during the time that you worked for Javi between May
3 of 2015 and December of 2016?

4 A. Yes.

01:24:09PM 5 Q. And for the record you circled the person farthest to the
6 left in the third row from the top; is that right?

7 A. Yes.

8 Q. And that person you identified as who?

9 A. Obed Torres.

01:24:22PM 10 Q. And the next photo you circled is three over in that row
11 and that's the person you previously identified as who?

12 A. Pistolita.

13 Q. And you circled the photo next to Pistolita, the second
14 from the right, that's the person you previously identified as
01:24:43PM 15 who?

16 A. Yankee.

17 Q. All right. Now, you testified that there were people that
18 were arrested and went to jail during the time you were a part
19 of this operation?

01:24:59PM 20 A. Yes.

21 Q. Were there other reasons why people left or stopped
22 working during times that you were a participant in this
23 operation?

24 A. Not that I remember.

01:25:23PM 25 Q. Okay. If you can clear your marks? Can you tell us how

1 you first became involved in selling drugs for Javi's
2 operation?

3 A. Through Obed.

4 Q. Tell us what happened.

01:25:48PM 5 A. I was always hanging out with Obed and he told me that he
6 talked with Javi, that he wanted to offer me -- see if I
7 wanted to make extra money to work in the table. And I say
8 yes.

9 Q. At the time Obed asked you that, were you still working as
01:26:19PM 10 a barber?

11 A. Yes.

12 Q. At the time Obed asked you that were you aware of what
13 Obed was a part of?

14 A. Yes.

01:26:30PM 15 Q. How were you aware of what Obed was a part of?

16 A. Because he will tell me -- he will tell me because we were
17 always together.

18 Q. After Obed told you that he talked to Javi and asked if
19 you wanted to work with him, what did you decide?

01:26:53PM 20 A. To work.

21 Q. And what was the first job you had as part of Javi's drug
22 operation?

23 A. Packaging drugs.

24 Q. And what did you refer to that as?

01:27:10PM 25 A. We will put the drugs -- like a piece of -- big piece of

1 glass --

2 Q. No, I wasn't asking you how you did it. Was there a
3 phrase that you used to describe packaging drugs? The job of
4 packaging drugs.

01:27:33PM 5 A. If there was a phrase you're asking me?

6 Q. Yeah. You earlier described working the table?

7 A. Yes.

8 Q. What's working the table?

9 A. Packaging drugs.

01:27:47PM 10 Q. Okay. And that was the first job you had as part of Javi's
11 organization?

12 A. Yes.

13 Q. Do you recall the first time you worked the table as part
14 of this operation?

01:28:01PM 15 A. Yes.

16 Q. Can you tell us about it?

17 A. It was in an apartment that -- that was next to General
18 Hospital. That was the first time where I started working
19 packaging drugs.

01:28:22PM 20 Q. An apartment next to Rochester General Hospital?

21 A. Yes.

22 Q. How did you get to that apartment?

23 A. Obed picked me up -- Obed and Pistolita.

24 Q. And what -- what happened when you went to the apartment
01:28:41PM 25 with Obed and Pistolita?

1 A. I went in and Robert was there, Pistolita, Obed and they
2 have a bunch of drugs already packed, heroin on one side and
3 cocaine in another side, and there Robert explained to me that
4 that's how you -- that's how you pack the drug, and he picked
01:29:21PM 5 it up with a very tiny spoon like a McDonalds, very small, and
6 with a credit card; from the mountain of heroin he will clean
7 the spoon with a credit card and he will put it in the little
8 bag, and then he will fold it and he will put a tape.

9 And cocaine the same with the spoon, he will pick
01:29:58PM 10 it up from the mountain, he will clean it, and will put it in
11 the little bag, like a very tiny ziplock bag so the cocaine
12 would not come out, you will burn it with a candle.

13 Q. All right. If I can show you what is not in evidence as
14 Government's 106. Do you recognize what's shown in
01:30:34PM 15 Government's 106?

16 A. Yes.

17 Q. What's shown in Government's 106?

18 A. That was the apartment next to the hospital where I used
19 to pack drug -- where we used to pack drug.

01:30:53PM 20 Q. Does Government's 106 fairly and accurately show the
21 apartment near the hospital that you and the others used to
22 pack drugs?

23 A. Yes.

24 **MR. MARANGOLA:** At this time I offer Government's
01:31:07PM 25 106.

1 **MR. VACCA:** No objection, Your Honor.

2 **THE COURT:** Exhibit 106 will be received.

3 (WHEREUPON, Government's Exhibit 106 was received
4 into evidence.)

01:31:23PM 5 **MR. MARANGOLA:** I can keep going, Judge.

6 **THE COURT:** This is a good time for a break.

7 **MR. MARANGOLA:** Thank you.

8 **THE COURT:** Members of the jury, at this time we're
9 going to recess until 8:30 tomorrow morning. It's important
01:31:29PM 10 you not discuss the matter or allow anybody to discuss the
11 matter with you. A couple things tomorrow: First of all,
12 there may be a witness called out of order tomorrow, so we may
13 have to disrupt some of the testimony to accommodate a
14 witness.

01:31:43PM 15 And, secondly, this is jury appreciation week, even
16 though every day is jury appreciation day and, therefore,
17 we're going to be supplying you with pizza tomorrow for lunch
18 around noon. So hope you'll be able to enjoy that.

19 So the jury may step down until 8:30 tomorrow
01:32:00PM 20 morning. In the meantime please do not discuss the matter or
21 allow anybody to discuss the matter with you. Jury may step
22 down.

23 (WHEREUPON, the jury was excused).

24 **THE COURT:** Wait until they're down the hallway. It
01:33:08PM 25 should be okay now.

1 (WHEREUPON, proceedings adjourned at 1:33 p.m.)

2 * * *

3 CERTIFICATE OF REPORTER

4 In accordance with 28, U.S.C., 753(b), I certify that
5 these original notes are a true and correct record of
6 proceedings in the United States District Court for the
7 Western District of New York before the Honorable Frank P.
8 Geraci, Jr. on May 13th, 2021.

9
10 S/ Christi A. Macri

11 Christi A. Macri, FAPR-RMR-CRR-CSR(CA/NY)
12 Official Court Reporter
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